

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

METROPOLITAN GROUP PROPERTY
AND CASUALTY INSURANCE
COMPANY, now known as FARMERS
GROUP PROPERTY AND CASUALTY
INSURANCE COMPANY,

CASE NO. 3:20-cv-05697-JHC
ORDER

Plaintiff,

V.

AUSTIN FITE,

Defendant.

AUSTIN FITE,

Consolidated Plaintiff,

V.

METROPOLITAN GROUP PROPERTY
AND CASUALTY INSURANCE
COMPANY, now known as FARMERS
PROPERTY AND CASUALTY
INSURANCE COMPANY and
METROPOLITAN PROPERTY AND
CASUALTY INSURANCE COMPANY,
now known as FARMERS PROPERTY AND
CASUALTY INSURANCE COMPANY,
registered foreign insurers doing business in
the State of Washington; and "JOHN AND
JANE DOES" 1-10.

Consolidated Defendants.

1 This matter comes before the Court on Metropolitan Property and Casualty Insurance
2 Company's ("MetLife") Motion for Leave to File Supplemental Pleadings. Dkt. # 87. The
3 Court has considered the submissions in support of and in opposition to the motion, the
4 applicable law, and the case file. Being fully advised, the Court GRANTS the motion.
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6 First, the Court concludes—and the parties do not dispute—that modification of the case
7 caption to reflect Metropolitan's new ownership is reasonable. Dkts. ## 87 at 3, 89 at 2. If this
8 case proceeds to trial, the Court will craft an appropriate jury instruction to minimize confusion
9 as to why the policies at issue are labeled "MetLife Auto and Home."

10 MetLife also argues that it should be permitted to file supplemental pleadings that reflect
11 the fact that the judgment in the underlying state court liability action has been vacated. Dkt. #
12 87 at 7–11, citing Fed. R. Civ. P. 15. Austin Fite opposes the motion, arguing that MetLife's
13 efforts are dilatory and that any amendment would be untimely and futile. Dkt. # 89 at 5–12.

14 Leave to amend or supplement pleadings under Fed. R. Civ. P. 15 should generally be
15 liberally given, but this liberality is subject to several restrictions. *DCD Programs, Ltd. v.*
16 *Leighton*, 833 F.2d 183, 186 (9th Cir. 1987). Leave need not be granted where the amendment
17 would cause the opposing party prejudice, is sought in bad faith, constitutes an exercise in
18 futility, or creates undue delay. *Ascon Properties, Inc. v. Mobil Oil Co.*, 866 F.2d 1149, 1160
19 (9th Cir. 1989) (citing *Leighton*, 833 F.2d at 186; *Foman v. Davis*, 371 U.S. 178, 182, (1962)).

20 The Court concludes that MetLife did not unduly delay in seeking leave to amend its
21 pleadings. Although the Court of Appeals vacated the judgment on liability and allocation of
22 fault on November 9, 0221, and then modified its opinion on reconsideration on April 12, 2022,
23 Fite then petitioned the Washington Supreme Court for review. The Washington Supreme Court
24 denied Fite's petition for review on September 7, 2022 and MetLife filed its motion less than two

1 months later. *Fite v. City of Puyallup*, 200 Wash. 1004, 516 P.3d 377 (2022). It was not
2 unreasonable for MetLife to wait until the vacatur became final before moving for leave to file
3 supplemental pleadings, and the Court sees no other indicia of dilatory motives or bad faith.

4 The Court also concludes that Fite would not be unduly prejudiced if it grants MetLife's
5 motion. Fite argues that, if MetLife is permitted to assert its proposed affirmative defense,
6 "discovery would have to be reopened so that Mr. Fite can acquire new information from
7 [MetLife]" about its claim handling process. Dkt. # 89 at 8. But this logic is flawed. MetLife is
8 not arguing that it first denied Fite's claims because of any potential liability defense, so the
9 proposed amendments are irrelevant to Fite's extracontractual claims. The amendments would
10 be relevant only to MetLife's complaint for declaratory relief and Fite's breach of contract claim,
11 and for those claims no additional discovery or witnesses would be required since they depend
12 solely on the language of the policy. Fite also argues that "additional witnesses will have to be
13 added to address what otherwise should be undisputed facts—that Mr. Fite was/is entitled to
14 recover damages from Mr. Mudd who has paid his limited liability policy limits and who at trial
15 conceded liability and the absence of comparative fault." *Id.* Contrary to his assertion, the
16 question of whether Fite is entitled to recover damages from Mudd is highly disputed, and
17 MetLife conceded this fact in their initial answer and complaint presumably because at that point
18 the judgment had not yet been vacated. Dkt. # 87 at 5. And the Court does not see how
19 additional witness testimony would aid in resolving the mainly legal question of whether an
20 insured can establish that he is "legally entitled" to recover damages from a tortfeasor when the
21 underlying state court action remains unresolved. Although the Court acknowledges that
22 discovery is closed and the trial is three months away, MetLife simply seeks to correct the record
23 with updated information about the underlying state court case and these corrections should not
24

1 require additional discovery. If Fite believes that these supplemental pleadings will require a
2 reopening of discovery, he may file a motion with this Court.

3 Lastly, granting MetLife leave to file supplemental pleadings would not constitute an
4 exercise in futility. Fite argues that the proposed amendments—which reference the vacated
5 judgment in the state court action—would be futile because there is no requirement under
6 Washington Law that an insured claiming UIM benefits acquire a judgment against the
7 underinsured third-party tortfeasor. Dkt. # 89 at 8–12. Fite may take the position that the state
8 court proceeding does not affect this Court’s ability to find that he is covered under the policy
9 and entitled to recover from MetLife. But the existence of a dispute over the effect of that
10 proceeding does not imply futility.

11 Accordingly, the Court GRANTS MetLife’s Motion for Leave to File Supplemental
12 Pleadings. Dkt. # 87. The Court directs the Clerk to update the case caption to reflect MetLife’s
13 new ownership.

14 Dated this 23rd day of November, 2022.

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17 John H. Chun
18 United States District Judge
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